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ABSTRACT

The Milwaukee Parental Choice Program (MPCP) provides tax support for children from low-income families to attend private schools. It is administered by the Wisconsin State Department of Public Instruction, although lack of administrative support for the program has been apparent. In addition, the Superintendent of Public Instruction has expressed his personal disapproval of the program, and an evaluation by an evaluator that the Superintendent selected has supported his views. Findings of this report are that the program has been generally successful, with high parent satisfaction, and increased enrollment from the first year (up by 81 percent). Early gains in reading scores, if sustained, are significant. There are significant limitations arising from the statutes that created the program, with limited opportunities for students meaning that, as structured, the program cannot fairly test the claim that choice can be an incentive for public school improvement. Seven tables present data about the program. Appendix A contains excerpts from the state statutes referring to the MPCP, and Appendix B is the text of the Superintendent's letter appointing an evaluation director. (SLD)

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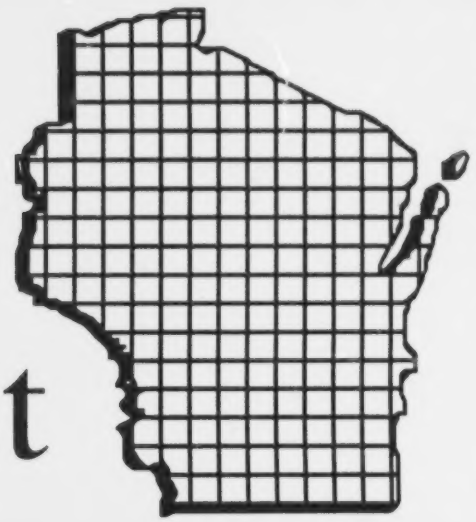

November 1992 Volume 5, No. 5

The Milwaukee Parental Choice Program

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Report from the President:

The Milwaukee Parental Choice Program (MPCP) is one of the most talked about issues in Wisconsin and the nation. It is clear from this report that the educational establishment, led by the Wisconsin Department of Public Instruction (DPI), is trying to cripple this new effort to help low-income children.

One question frequently asked about the MPCP is why more parents aren't involved? Simply put, as administered by DPI, the program discourages parental involvement. We also learn from this study that DPI's official evaluation of the program has serious flaws.

For the official evaluation, DPI Superintendent Herbert Grover chose an academic whose published views include criticism both of educational choice and research supporting choice. Apparently, DPI did not attempt to award the evaluation contract to a nonpartisan individual or to use competitive bidding in seeking proposals.

DPI has insulated the evaluation process from public scrutiny. It permitted the evaluation to be financed by a private foundation. It turned over official state records to its evaluator, who contends he is not covered by Wisconsin's Open Records Act. It won't enforce its own rules, rules that would make data about the program broadly available.

While the evaluator's initial report clearly shows that Choice schools are an improvement over the Milwaukee Public Schools, it is hardly surprising the evaluator was not enthusiastic in his recommendations. Instead of seeking a meaningful expansion of the program, the evaluator's main recommendation is to slap new regulations on the schools.

DPI no longer has credibility for making a nonpartisan evaluation of the Milwaukee Parental Choice Program. Wisconsin needs an independent evaluation. The best place is the Legislative Audit Bureau. At least they won't flout state law.

Finally, we would like to acknowledge the support of the Joyce Foundation who contributed the funding for this project.

James H. Miller

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The Milwaukee Parental Choice Program

by

George A. Mitchell

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The Milwaukee Parental Choice Program

by

George A. Mitchell

Executive Summary

This report analyzes the Milwaukee Parental Choice Program (MPCP). The program provides tax support for children from low-income families to attend private schools. It has attracted national attention in the school reform debate.

Findings

- For most participating students, the program has been successful.
- Enrollment is up 81% from the first year. Parent satisfaction is high.
- Early gains in reading scores, if sustained, are significant.
- The program has succeeded in focusing on low-income children having difficulty in public school. Ninety-eight per cent of participating students are eligible for subsidized federal food programs; 96% are from minority groups.
- Participating private schools exhibit characteristics associated with effective education. Historically, they have been successful in educating students from low-income families.
- There are significant limitations arising from the statutes which created the program:
    - Many children from low-income families can't participate. Already, more students have been rejected than accepted.
    - As structured, the MPCP will not fairly test the main claim of educational choice proponents: that choice can be a competitive incentive for public schools to improve.

Administration of the Program

The MPCP is administered by the Wisconsin Department of Public Instruction (DPI). Herbert Grover, the Superintendent of Public Instruction, has described the program as a "disgrace" and called some participating schools "souped-up day care centers." Grover's administration of the program has been ineffective; he has failed to separate his personal disapproval from his sworn responsibility to implement the program effectively. His actions have been inconsistent with Wisconsin's tradition of open government and nonpartisan administration of the laws. For example:

- Sizable numbers of low-income, minority children are denied the opportunity to participate because Grover has not complied with a law requiring him to "ensure" that eligible parents are informed of the program.
- Still more children are excluded because Grover hasn't resolved problems regarding transportation of poor children and eligibility for early childhood programs.
- Grover has mismanaged the legally required evaluation of the program:

- He chose an evaluator who has been critical of choice. Grover will not disclose competing proposals he received or whether there was a competitive selection process.

- The initial report of Grover's evaluator is flawed and has been sharply criticized by a distinguished national scholar.

- Grover has sequestered key public records about the program by allowing access only for his designated evaluator. There are no written procedures for managing public records in the sole custody of the privately-financed evaluator.

- Grover's evaluator says, perhaps correctly, that he (i) is not subject to Wisconsin's Open Records Act and (ii) has a "proprietary interest" in maintaining control of project records. Thus, at the expense of the news media, other academic researchers, and the general public, Grover effectively has granted to one person a long-term, open-ended monopoly on evaluating the program.

- Grover has not enforced his own rules, which have the force of law, regarding records which should be available to the general public. By not enforcing these rules, Grover has compromised the confidentiality of student records and let those records be held by his evaluator outside of state custody.

Recommendations

If various limits on participation in the program aren't lifted or eased, the MPCP will be merely one more program for a few hundred children. Unless allowed to expand, its potential impact on broad educational reform will remain untested and unknown.

The Governor and the 1993 Legislature should consider several actions regarding the Milwaukee Parental Choice Program.

- Low-income children should not be excluded by arbitrary administrative and statutory limits. These limits should be lifted.

- Low-income children should not be excluded because their parents are unaware of the program. Grover should be directed to comply in good faith with the requirement that parents be informed.

- Full responsibility for the state's evaluation of the program should be transferred from the Department of Public Instruction to the Legislative Audit Bureau (LAB). An LAB report due in 1995 should be accelerated.

- The Department of Public Instruction should be directed to enforce its own rules for protecting student confidentiality, thereby enabling public review of academic achievement records.

- The Attorney General should be asked to determine if Grover has violated the Wisconsin Open Records Act.

Chapter I. The Milwaukee Parental Choice Program (MPCP)

The Milwaukee Parental Choice Program, sponsored by Representative Polly Williams, was enacted in March, 1990, by the Wisconsin Legislature. It was signed into law by Governor Tommy G. Thompson. This chapter summarizes the MPCP during its initial years of operation.

Findings

- Ninety-eight per cent of participating students are from low-income families; 96% are from minority groups.
- Enrollment in the third year is up 81% from the first year.
- Student participation would have been higher but for action and inaction on the part of DPI Superintendent Grover.
- More than 700 student applications have been rejected because of funding and other statutory limitations. In 1992-93, 406 applications were rejected.
- In the program's first three years, the Milwaukee Public Schools (MPS) will lose about $3.8 million in state aid due to the MPCP. Future losses from this and a separate choice program could exceed $5 million a year.
- Private schools in the program exhibit the characteristics of effective schools identified in local and national research.
- Contrary to conventional wisdom, the program is not unique in providing public funds to private schools. It is unique in giving low-income, minority parents that choice.

Recommendations

Neither actions of DPI nor arbitrary statutory limits should keep low-income children from participating. The Legislature should:

- Direct Superintendent Grover to comply in good faith with the statutory requirement that low-income parents be informed about the program.
- Increase per pupil funding so schools have the fiscal resources to expand capacity and respond to rising parent interest in the program.
- Repeal the law which says schools may not enroll more than 49% of their students through the MPCP.
- Repeal the law which limits overall program participation to 1% of MPS enrollment.
- Clarify that students are eligible for early childhood programs which start at age three.
- Modify transportation provisions which prevent some poor families from participating.

How to improve public education?

A national consensus has emerged in the last decade. America's public schools aren't as successful as they need to be and can be. The focus has shifted from whether major change is needed to what kinds of major changes will improve public schools.

One proposal is to give low and moderate income parents more choice in selecting the schools for their children Proponents say this would: (1) increase parent involvement, which is closely linked to student performance; (2) provide an incentive for public schools to improve; and (3) give parents with limited income some of the options available to families with more income.

Public opinion polls show increasing support for this idea. There remains a major debate regarding how "choice" should be implemented and whether it will, in fact, improve academic achievement.

The Milwaukee Parental Choice Program - where does it fit?

Why is the MPCP, which involves enough children to fill only one or two schools, the focus of national interest?

The program is significant because it addresses the central issue in the debate about educational choice: **control.** Who **controls** where a child attends school? How broadly can that **control** be exercised? Is the **control** accompanied and strengthened by financial resources?

For low-income parents, the MPCP departs dramatically from traditional forms of control over school selection. Under the MPCP:

- Low-income parents make the choices;
- Private schools participate and receive public funds; and
- Public funds "follow" the student from the public district the student would have attended.

As described later in this chapter, for many years there have been programs in which **public schools decide** to contract with private schools to educate students **chosen by the public school district.** The MPCP is unique in giving low income, minority parents that decision.

Is the MPCP a real test?

The MPCP has substantial limitations. Only a small number of students can participate; the number of participating schools is small; and funding is modest. (See note 3.)

The program's important provisions and limitations are summarized in Table 1.

Table 1.
Characteristics of the Milwaukee Parental Choice Program[1]

Who Chooses?	Parents.
Eligibility?	Maximum of 933 students - 1% of Milwaukee Public School (MPS) enrollment. Family income cannot exceed 175% of poverty level ($24,412 in 1992 for family of 4.)
Range of Choices?	Nonsectarian private schools in City of Milwaukee. No school may enroll more than 49% of its students from the MPCP.
Who pays? How much?	State of Wisconsin, using $2,739 per student in state aid which otherwise would go to MPS.[2]

These limits keep many low-income children from participating and raise a basic question: Is the MPCP a valid test of whether educational choice can spur public schools to improve?[3] The answer will depend on how significant MPS views the lost state aid. The financial implications are reviewed later in this chapter.

The program's first three years

The program began in the 1990-1991 school year. In addition to normal startup difficulties, actions by Grover and the Department of Public Instruction prevented a smooth beginning.

- DPI waited until May 29, 1990, to issue a press release announcing that schools had only two weeks to apply to participate.[4]

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[1]Complete statutory provisions are in Appendix A. Administrative rules governing the program are in Chapter PI 35.01 - 35.05 of the Wisconsin Administrative Code.

[2]Preliminary estimate of 1992-93 school year aid provided in August, 1992, by Department of Public Instruction. Estimated per pupil payments of $2,739 are less than half of the 1991-92 "Complete Annual School Cost" for MPS (Basic Facts About Wisconsin's Elementary School Districts, 1991-1992, Department of Public Instruction.)

[3]The program's limits largely reflect restrictions sought by opponents of expanding education choice. In a real sense, the limits are intended to curtail the program's impact and success. This might backfire on program opponents. If the MPCP is viewed as a success, in spite of the limits, the success will be magnified. If the program is judged not to work, the limitations will be cited, justifiably, as a major reason.

[4]The Milwaukee Sentinel, May 30, 1990.

- Despite a statutory requirement to "...[e]nsure that pupils and parents...are informed. of the...program..."[5] DPI used a single press release and waited until two weeks before a June 30 enrollment deadline to issue it.

- During the critical early weeks of planning the program's implementation, Grover was preoccupied with publicly denouncing the MPCP. Less than two months before school was to start, Grover joined teacher unions in a suit to stop the program.[6]

The lawsuit was pending during enrollment periods for two of the first three program years. Courts eventually upheld the program's constitutionality,

Grover's attacks, the litigation he inspired, and inadequate publicity had an impact: initial enrollment was only 341 students at seven private schools.[7]

Sixty-three of the initial students attended a school which ceased operations during the 1990-91 academic year.[8]

According to officials at some participating private schools, day-to-day administration by DPI has improved and no longer seems influenced by Grover's opposition.[9] Still, the Department continues to ignore its statutory responsibility to "ensure" that parents know of the program. Further, DPI failed in 1992 to propose even simple changes which would

---

[5]s.119.23(5)(b), Wisconsin Statutes; see Appendix A.

[6]Grover vehemently opposed the program from the start. Sworn to uphold the law and administer it effectively, he publicly urged that he be sued to kill or delay the program. Other published statements and news reports included:

- "Choice Plan is a ploy...[Grover] says Bradley Foundation President Michael Joyce and the conservative Milwaukee business community he represents are behind an effort that Grover contends could ruin public schools." (The Milwaukee Journal, July 23, 1990).

- "It's a disgrace...Has the citizenry in Wisconsin lost it sense?" (Milwaukee Sentinel, August 8,1990.)

- "Behind [the MPCP Grover] sees Republican Gov. Tommy G. Thompson with an expanded school voucher plan, and what Grover calls the wealthy, leveraged buyout crowd after tax dollars for their children's tuition to private schools." (Milwaukee Journal, August 26, 1990.)

[7]"Milwaukee Choice Statistical Information," Department of Public Instruction, undated. (Initial enrollment was less than 40% of the program's modest participation limit. According to The Milwaukee Journal [August 7, 1990]: "An informal survey...showed that 397 students had been accepted out of 1,037 who applied...Schools said space limitations and legal challenges - including a challenge by the state's top education officials - had limited the numbers they were accepting.")

[8]Superintendent Grover reacted promptly to the closure with a public statement saying it proved the program wouldn't work. He was more energetic in making this announcement than in promoting the overall existence of the program.

[9]While Grover 's opposition remains unchanged, another top official has described the program's impact as insignificant: less than a year after Grover's initial blasts, Steven Dold, a top policy adviser to Grover, said: "The whole thing hasn't amounted to a good-sized flea on the tail of a dog." (The Washington Post, May 25, 1991.)

address problems identified in November, 1991, by Grover's designated program evaluator.[10]

The second year: 1991-92

The Department continued its de facto noncompliance with the statutory requirement that it "ensure" that parents are informed of the program. It issued a single press release[11] six weeks before the enrollment deadline.

Enrollment in September, 1991, was 521, up 53% from the first year. The same six schools participated.[12]

In November, 1991, the Wisconsin Supreme Court declared that the program was constitutional. Also, in that month, Grover's evaluator issued his first report.[13] It proposed better ways of informing parents about the program. Grover made no changes.

The third year: 1992-93

On May 12, 1992, DPI again issued a single press release advising parents of the June 30 enrollment deadline.

Enrollment in September 1992 was 617, up 18% from 1991 and 81% from 1990.[14] Eleven schools are participating, compared to six in years one and two.[15]

DPI's failure to inform parents in a meaningful way contrasts with an understaffed, privately-financed effort to provide scholarships for poor Milwaukee children. Thousands of applications for this program were received in a few weeks during the summer of 1992; in the 1992-93 school year about 2,000 scholarships were granted, more than three times the participation in the MPCP. (See note 28.)

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[10]Professor John F. Witte of the University of Wisconsin-Madison Political Science Department. See discussion elsewhere in this Chapter and a detailed review of Witte's evaluation in Chapter II.

[11]"Six Schools Indicate Interest in Milwaukee Choice Program," May 24, 1991.

[12]"Milwaukee Choice Statistical Information," Department of Public Instruction, undated. The second year enrollment was about 55% of the program's participation limit.

[13]First Year Report - Milwaukee Parental Choice Program, ("First Year Report"), by John F. Witte.

[14]Current year enrollment is about 66% of the program's maximum allowable enrollment. 1992-93 enrollment data are from a survey ("Author's Survey") of participating schools conducted for this report in September of 1992. Ten of eleven schools responded. The responding schools account for 95% of the participating students.

[15]A twelfth school, Messmer High School, applied and initially was accepted for participation. DPI later denied the application, saying the school had a "pervasively religious curriculum." In gathering information from Messmer, DPI asked whether the school received support from the secular Bradley Foundation (headed by Michael Joyce - see note 6). When he was criticized for this inappropriate question, Grover implausibly claimed his question referred to a different Bradley Foundation. Messmer has appealed the denial of certification.

Current MPCP enrollment of 617 equals about 30% of the students at the 11 participating schools. Two schools' enrollment is close to the 49% limit.

The rest of this chapter summarizes information about: participating students; parent satisfaction; participating private schools; program cost; rejected applications; transportation limitations; limits on early childhood programs; and non-returning students.

Participating students

The MPCP was structured so participating students would come from low income families. (See Table 1.) This has occurred. Students in the program come from families with less income than the average Milwaukee Public School student. Most students are members of racial or ethnic minority groups.

Table 2.
Family Income and Race: MPCP and MPS Students

	MPCP Students[16]	MPS Students[17]
Low Income[18]	98%	56%
% White	4%	29%

The comparison between MPCP and non-MPCP students at participating schools is similar.

Table 3.
Family Income and Race: MPCP and Non-MPCP Students at Participating Private Schools[19]

	MPCP Students	Non-MPCP Students
Low Income	98%	54%
% White	4%	32%

[16]Author's Survey

[17]MPS 1991 Report Card, Office of Educational Research and Program Assessment, September, 1991.

[18]Defined as being eligible for free- or reduced-price lunch.

[19]Author's Survey

Tables 2 and 3 establish that the program does not support several arguments which Grover and other opponents generally direct at educational choice initiatives, including:

- Choice "leaves behind" poor and minority students;
- Choice is a way for the "best" students to flee public schools; and
- Choice is a way for students to attend "elite" private schools.

Instead, the MPCP extends opportunities to hundreds of the least advantaged families and students in Milwaukee. Far from being "elite," the participating private schools are much like MPS in terms of (i) racial and ethnic composition and (ii) family income.

Parent satisfaction

The most straightforward outcome of the MPCP is increased parent satisfaction. This is significant in its own right, and especially so given the documented relationship between parental involvement and academic achievement.

Parent satisfaction is evident from research and widespread anecdotal evidence.

Grover's evaluator reports that "...not only are the Choice parents considerably more satisfied than MPS parents, they are much more satisfied than they were with the prior (public) school."[20] He also concluded that MPCP "results...demonstrate even more impressive parental involvement than...Choice parents exhibited in their prior [public] schools. Contacts by the school, contacts of schools by parents, and participation in teacher conferences and school organizations were all generally higher. The same was true for critical home activities, such as reading, mathematics, and other homework. The exception in this pattern was that there was less frequent parent-school contact over disciplinary matters, which we interpret as a positive change."[21]

Local and national media have provided extensive coverage of the MPCP.

The Milwaukee Journal. "Why poor parents like the program's options"[22] reads a headline on a story which says:

> The school choice movement, which allows parents to have more say in where there children attend school, clearly has struck a nerve...The first independent evaluation...confirms parents' satisfaction...

The article cites the views of parents Janette Williams, Doris Williams, Maria Rosario, and Jose Centeno.

> Janette Williams. "In public school, the work was too easy. [Her son] was very bored and got in trouble and was getting suspended...the two times he got in

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[20] First Year Report, pp. 19-20. See further discussion of parent satisfaction in Chapter II.

[21] First Year Report, p. 21.

[22] The Milwaukee Journal, November 24, 1991.

> trouble [at the new school], discipline was swift and effective...I guarantee you, there were no more [problems] after that."
>
> Doris Williams. She was told by MPS her daughter was too young to enter 4-year old kindergarten and instead enrolled her in one of the MPCP schools. "I knew what was needed and ignored what they said....She's learning a lot of things you wouldn't expect...at that age."
>
> Maria Rosario. Her daughter "...was having trouble in both English and Spanish because she was so confused. After I made the change I saw a difference really fast." In the program's second year Ms. Rosario enrolled two other children.
>
> Jose Centeno. For him, "...the program offered a way to send his children to [a school] which is closer to his South Side home...'If they were in public school, they would have been sent way to the East Side or the North Side'."

The Milwaukee Sentinel. In September, 1992, the paper reported on the impact on Bruce-Guadalupe Community School, where MPCP students numbered 42 in 1990 and rose to 102 in 1992.

"Choice a boost for Bruce-Guadalupe"[23] reads the article's headline. It reports that the K-8 school draws most of its students from the Hispanic community. Walter Sava, a school official, said the school's graduates have a 90% high school completion rate, compared to about 50% for Hispanics in general. The article reports on "[t]hree mothers [who] in recent interviews talked about why they chose Choice and Bruce-Guadalupe."

> Maria Fontenez. "I want the best for my kids," said Ms. Fontanez, who said smaller class sizes and an environment that encourages parental involvement have helped her children get a good start.
>
> Migdalia Rodriguez. Ms. Rodriguez "enrolled her 8-year old daughter...because she felt the Milwaukee Public Schools system had failed her...[S]he thought her daughter was doing fine [in MPS] until the end of the 1990-91 school year, when the teacher said [her daughter] would be held back because she couldn't read. 'They never told me she was in danger of not passing,' Ms. Rodriguez said...[Her daughter] is a good reader now and advanced to second grade this fall."
>
> Wanda Vega. Ms. Vega said she was "happy and surprised when [her daughter] was accepted. 'I like it,' [her daughter] said...Ms. Vega wishes the Choice program included a private high school [for her son]."[24]

National media. Parental satisfaction with the program was prominent during an extended segment on the CBS program "Sixty Minutes." Interviews with satisfied parents also were included in stories published by The Washington Post, The New York Times, and Education Week.[25]

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[23] The Milwaukee Sentinel, September 14, 1992.

[24] Of the 11 participating schools in 1992-93, one (SER-Jobs) offers an alternative high school curriculum. Five offer K-8 programs. The other five offer early childhood and elementary programs.

[25] The Washington Post, May 25, 1991; The New York Times, December 19, 1990; and Education Week, September 12, 1990.

Participating private schools

Chapter II reviews an analysis of participating schools by Superintendent Grover's evaluator. All but one school demonstrated characteristics which local and national research associate with high levels of effectiveness. Parent involvement is one example. Others include positive teacher morale, high expectations for students, a safe school environment, and effective discipline. The ineffective school cited by Grover's evaluator closed in the program's first year, a development unheard of in the public sector. Grover said the closure demonstrated the program's shortcomings. It more likely demonstrates the program's strength.

The effectiveness of the participating schools is noteworthy because the majority of their students are from low-income, minority families. Research in Milwaukee[26] and nationally has established a strong statistical correlation (not necessarily causation) between family income, race, and academic achievement. Specifically, most students from low income, minority families perform below average on measures of academic achievement.

Yet, at the participating private schools, where most students are from low income, minority families, there is a history of test scores, graduation rates, and attendance rates which are at or above average. Research by Grover's evaluator indicates that the difference is the presence of "effective school characteristics" cited above. A purpose of the MPCP is to highlight these characteristics and encourage public schools to emulate them.

The program's cost

The state pays tuition to participating private schools based on state aid which otherwise would go to the Milwaukee Public Schools.

Table 4.
State Tuition Payments Transferred From MPS to Participating Private Schools[27]

	1990-91	1991-92	1992-93 (est.)
Amount Per Student	$2,446	$2,643	$2,739
Total Paid (Transferred)	$733,800	$1,353,216	$1,687,224
Year-to-Year Growth in Total Paid (Transferred)	--	84%	25%
% Growth From Year 1	--	--	130%

[26]The Study Commission on the Quality of Education in Metropolitan Milwaukee Public Schools ("Study Commission") was created in 1984 by then-Governor Anthony Earl and Superintendent Grover. The Study Commission concluded its work in 1985 after performing the most extensive examination ever of Wisconsin public education. A major finding was the strong correlation between low academic achievement, family income, and race.

[27]Data for 1990-91 and 1991-92 from DPI reports: "Milwaukee Parental Choice Program Payment Summary." Data for 1992-93 is per author's calculations.

Through 1992-93, almost $3.8 million will have followed students from MPS to the participating private schools.

Financing the program from aid to MPS means the program does not increase state taxes. More importantly, it is intended as an incentive to MPS to improve schools and reduce the desire of students to transfer. It is unlikely that the MPCP can achieve this objective unless participation is expanded. Under the current law, MPS could lose about $2.7 million a year if 1% of its students chose to attend MPCP schools. This is less than 0.5% of MPS' total budget.[28]

MPCP tuition is less than half of MPS' per pupil budget[29] and about 92% of the per pupil cost of education ($3,001)at the private school.[30] This is half the cost per pupil at MPS.[31]

Most non-MPCP parents at the private schools pay less in tuition than the schools' cost of education. This requires the schools to supplement tuition with grants, fund-raisers, and other means. At four of the private schools tuition is less than 50% of total cost, whereas MPCP payments are almost 92% of average cost at the participating private schools.. Thus, for some schools the MPCP effectively reduces the per cent of total funds which the schools must raise from non-tuition sources.

Some participating schools say MPCP tuition limits curtail the number of students they can afford to accept. One school official said reimbursement of $3,300 per pupil would enable his school to "...serve Choice families up to the 49% state limit."[32] Another said "we would participate further if we did not lose so much money per student accepted."[33]

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[28]The MPCP is not the only "choice" program affecting the MPS budget. In mid-1992 a group of private businesses and the Bradley Foundation announced a 3-year, multi-million dollar scholarship program for low-income children to attend private (including parochial) schools. The program, Partners Advancing Values in Education (PAVE), provided financial support for more than 2,000 students in 1992-93. Preliminary estimates are that at least half of these students otherwise would have attended MPS. If this is verified, it means MPS will lose more than $2.7 million in aid (1000 X $2,739) due to the PAVE program. Combined with the impact of the MPCP, these dollar amounts might begin to approach a level which will be noticed by the Milwaukee Public Schools.

[29]Estimated per pupil payments of $2,739 are about 41% of the 1991-92 "Complete Annual School Cost" for the Milwaukee Public Schools, as reported in Basic Facts About Wisconsin's Elementary School Districts, 1991-1992, Department of Public Instruction.

[30]Per Author's Survey. This is a weighted average of reported costs at 10 of 11 schools with about 95% of participating students.

[31]The lower cost of nonpublic schools reflects a variety of factors. Some - perhaps most - operate with less administrative overhead and greater efficiency than public schools. Another important factor was cited by Susan Wing, administrator of Woodlands School, a participating private school:

> One bit of evidence that gets overlooked in all the discussion of Choice and fiscally responsible private schools - one major reason that our per student costs are low - is that we underpay our teachers. While teachers of high caliber choose to teach at Woodlands for reasons other than adequate compensation, we should not be satisfied with paying quality professionals much less than their abilities dictate.

[32]Sam Rondone, Lakeshore Montessori School.

[33]Ken Berkel, Milwaukee Montessori School.

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The program's financial limits also curtail program offerings which might be of particular value to participating students. Said the administrator of one school:

> One concern which we face is finding the means to support the nonacademic needs of students who attend under the [MPCP]. Extra curricular activities are often as important as the classroom experience, and these [MPCP] families cannot afford those fees.[34]

A major unknown is what level of funding would be needed for schools to expand their physical capacity and accept more MPCP students. As indicated above, current MPCP tuition payments are less than 100% of operating costs and thus don't provide schools with revenue sufficient to expand.

The payment of public funds to private schools often is cited, erroneously, as a major distinguishing factor of the MPCP. In fact, there is **well-established precedent** in state law for private, non-sectarian schools to receive public money and to receive more public money per pupil than provided by the MPCP.

The precedent is found in contracts between school districts and private schools to educate "at risk" students (e.g., those who are having difficulty in traditional public schools). In 1991-92 MPS had contracts with private schools for more than 1,400 "at risk" students. MPS pays the private schools about 80% of the MPS cost of education. For students placed on a full-time basis, this equals almost $5,000 a year (compared to less than $3,000 under the MPCP).

Why makes the MPCP so "controversial," when a program already existed providing more public money to private schools and affecting more students? Why did Grover not challenge the constitutionality of the "at risk" legislation, enacted during his term? Two reasons. The first is **control.** Parents don't control the "at risk" program; school bureaucrats do. The second relates to the affected students. "At risk" students often have proven difficult to handle; school officials don't object to finding an alternative space for them.

Three of the 11 participating MPCP schools also educate "at risk" students under contract with MPS. At one school the **majority** of students are educated under contract with MPS. This conflicts with the policy assumption in current MPCP law, whereby no more than 49% of students at a school can be publicly financed .

Student applications not accepted

News reports (see note 7) and Grover's evaluator said that several hundred students applied, but were not accepted, in the program's first year.

For this report, participating schools were asked to specifically identify the number of students not accepted due to:

(1) Physical space limits at the school; and

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[34]Susan Wing, Woodlands School.

(2) The statutory limit that students in the MPCP can not exceed 49% of a school's total enrollment.[35]

The responses are depicted in Table 5.

Officials at participating schools say that because state reimbursement does not cover their operating costs they cannot afford to expand so more students can attend. **This funding limit, and the 49% rule, combined to keep more than 400 students out of the program this year.**

Table 5.
Students Not Accepted (Due to Space and the 49% Limit)[36]

	1990-91	1991-92	1992-93
Students Not Accepted	155	143	406
As % of Accepted MPCP Students (Fall Enrollment)	45.5%	27.4%	65.9%

Grover is aware of this problem. To date he has not responded.

If all 406 rejected students had been accepted in 1992-93, MPCP enrollment would have exceeded the overall, 1% statutory limit of 933 (see Table 1). Various program limits thus combine to keep hundreds of otherwise eligible low-income students from participating in the program.[37] The arbitrary 1% and 49% limits should be repealed and per pupil funding should be increased for schools willing to expand. There is precedent, in such state programs as Chapter 220[38], for the extra aid if schools agree to expand.[39]

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[35] s.119.23(2)2, Wisconsin Statutes.

[36] Author's Survey.

[37] First Year Report (see note 13) The November, 1991, report said MPCP limits did not need to be changed at that time but also said future changes might be required. The Superintendent's evaluator said this issue would be monitored and presumably addressed in his next report, due in November, 1992.

[38] Since the mid-1970s the state has paid bonuses to suburban school districts who accept transfer students from MPS. While the amount of these bonuses had been excessive, it is a tool that can be used to encourage the participating private schools to accept more MPCP students.

[39] In the final analysis, even with state incentive payments, an expansion of the MPCP probably would have little or no net cost, because it would reduce somewhat the substantial need and cost MPS has identified for growth in its own physical space.

Limits on early childhood participation

Perhaps nothing in educational research is clearer and less debated than the positive impact of early childhood programs. At least three of the eleven private schools enroll non-MPCP students at the age of three in Montessori programs.

However, officials at two of these schools said the state prevents children from attending (under the MPCP) until they are four years old. The rationale for the state's position is unclear. The statute governing the MPCP says "any pupil in grades kindergarten to 12" is eligible. Administrative practices should be clarified so three-year olds can attend programs designed for children at that age. (MPS itself has programs for three-year olds.)

Transportation limitations

Ostensibly, the statutes provide[40] for transportation of participating students. However, officials at several schools, and Superintendent Grover's evaluator, point out significant practical limitations.[41] For example, some poor parents must advance the cost of transportation from personal funds and are not reimbursed until the end of the school year. For many, this simply is not feasible. The bottom line: low-income students who otherwise would be eligible are denied a choice because of the cost of transportation.

Non-returning students

Another issue which has arisen is the meaning of the relatively high number of students who have not returned for a second year in the program. Although this is common in Milwaukee public schools, the media and others have made special note of it with respect to the MPCP. The number and rate of non-returning students is indicated in Table 6.

Table 6
Non-Returning Students[42]

	September 1991	September 1992
Non-Returning Students	123	166[43]
As % of MPCP Enrollment in Prior January	47.4%	31.6%

[40] s.119.23(6), Wisconsin Statutes.

[41] First Year Report, p. 26.

[42] Data is from: (1) the Author's Survey of participating schools (see note 11); and (2) "Milwaukee Choice Statistical Information," Department of Public Instruction.

[43] Includes data from all but one school - SER-Jobs - which did not respond to the Author's Survey.

Grover's evaluator is to analyze the significance of, and factors behind, the non-return rate. The evaluator's second report is to be issued in November, 1992.

During a visit to Milwaukee in October, 1992, the president of the National Education Association told The Milwaukee Journal that the non-return rate illustrates the program's weakness. An alternative point of view is that it illustrates the program's strength: no child or parent is forced to participate.

Chapter II. Evaluation of the Milwaukee Parental Choice Program

The original objectives of this report were to review the Milwaukee Parental Choice Program and to analyze the initial report of Grover's designated evaluator.

Findings

- Actions of Grover and DPI make a comprehensive review impossible. In apparent violation of state law, and its own rules, DPI practice is to deny access to reports on the academic achievement of participating students.

- Grover cited the need for independence in selecting an outside consultant to evaluate the MPCP. However, his designee's published views are not those of a neutral observer. Grover won't disclose the process he used to solicit and review competing proposals to evaluate the program.

- Only Superintendent Grover's designated evaluator has access to crucial records about academic performance of students in the program. Grover has failed to follow the standard procedure of establishing clear written procedures for managing the records and has allowed the outside evaluator to have sole custody of some records.

- Grover's evaluator is privately financed and says, perhaps correctly, that he and his research team are not covered by the state's Open Records Act. The evaluator says he has a "proprietary interest" in keeping others from seeing project records until he first publishes information.

- Grover has violated his own rules by allowing his evaluator and research team (none of whom are DPI employes) to see student records which are not coded to protect confidentiality.

- The first year evaluation by Grover's designee is flawed. A major national scholar has issued a harsh critique of the evaluation. The scholar says the evaluation's design is biased.

- Among other things, the first year report misrepresents achievement. In so doing, it disregards significant gains in reading by MPCP students.

Recommendations

- To give credibility to the evaluation process, the Governor and Legislature should transfer the state's responsibility for evaluating the program from Grover to the Legislative Audit Bureau.

- To assure that the news media and all interested citizens can review program records, the Wisconsin Attorney General should require DPI to enforce its own rules and to comply with the spirit and letter of the Wisconsin Open Records Act. Specifically, DPI rules require information to be submitted which relates to evaluating the MPCP. This information must be available publicly, so individuals other than the designee of Superintendent Grover can review fully the program.

Section 1. Actions by the Department of Public Instruction

In authorizing the Milwaukee Parental Choice Program, the Legislature required the Superintendent of Public Instruction to evaluate of the program.[44] To carry out this task, Grover selected political science Professor John Witte of the University of Wisconsin-Madison. In 1984, Grover also participated in the selection of Witte to conduct research for a commission studying public schools in metropolitan Milwaukee.[45]

In naming Witte, Grover committed to "comprehensive" and "independent" evaluation of the MPCP.[46] But, as a direct result of DPI actions:

- Legislators, the news media, other researchers, and citizens in general cannot see information which should be available as public records. The information is essential to evaluating the MPCP.

- Professor Witte is allowed sole custody of key records which are supposed to be filed with DPI. Witte's is privately financed. He says, perhaps correctly, that he is not subject to the Open Records Act. He also says he has "a proprietary interest" in controlling records so he can be the first to publish.

- There apparently are no written procedures between Witte and DPI for managing the data held by Witte or for access to it even after he publishes. Absent from Grover's agreement with Witte are normal procedures for handling project records during and after his study. The Superintendent's open-ended appointment letter does not define an end point for Witte's work; project records could be tied up for years by this one individual.

As a result, rather than furthering "comprehensive" or "independent" reviews of the MPCP, Grover has made it impossible for anyone but his designee to see information which the law and DPI rules require be available to all. Grover has allowed the only records about student achievement to be held outside the Department, by someone who claims not to be covered by public record laws. Grover effectively has granted Witte a monopoly on evaluating the program.

Wisconsin's tradition of open government

Arguably, no public value in Wisconsin is more firmly established than support for broad citizen scrutiny and open debate. This is an area of Wisconsin public policy and tradition where no ambiguity exists.

The Wisconsin Open Records Act declares the following:

> ...[A] representative government is dependent upon an informed electorate...[I]t is declared to be the public policy of this state that all persons are entitled to the

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[44] s.119.23(5)(d), Wisconsin Statutes.

[45] The Study Commission on the Quality of Education in Metropolitan Milwaukee Public Schools ("Study Commission"), created in 1984 by then-Governor Anthony Earl and Grover. The Study Commission concluded its work in 1985 after performing the most extensive examination ever of Wisconsin public education. The author of this report chaired the Commission. Witte was its Executive Director.

[46] September 12, 1990, letter to Professor John Witte. See Appendix B.

> greatest possible information regarding the affairs of government and... providing persons with such information is declared to be an essential function of a representative government and an integral part of the routine duties of officers and employes whose responsibility it is to provide such information...the [Wisconsin Open Records Act] shall be construed in every instance with a presumption of complete public access, consistent with the conduct of governmental business. The denial of public access generally is contrary to the public interest, and only in an exceptional case may access be denied.[47] (emphasis added)

This policy and tradition is firmly rooted in the state's history. For example, addressing the mission of the University of Wisconsin, a 19th Century report from the Board of Regents eloquently states:

> Whatever may be the limitations which trammel inquiry elsewhere, we believe that the great State University of Wisconsin should ever encourage that continual and fearless sifting and winnowing by which alone the truth may be found.[48]

These sentiments are memorialized on a plaque at the entrance to the Bascom Hall on the University's Madison campus. They are part of what has come to be known as "The Wisconsin Idea."

The Milwaukee Parental Choice Program epitomizes why open scrutiny is important. The program is the subject of intense state and national interest. Conceivably, it could influence a historic change in American education policy. The state should afford full access to information for all who express an interest.

In appointing Witte, Grover said that the "...requirements of the program are in the experimental tradition of educational research..[I]t must be evaluated fairly and comprehensively."[49] Grover's appointment letter itself invokes the Wisconsin Idea, and thus directly associates the Superintendent with the values expressed in the plaque on Bascom Hall: "We thank you [Witte] in advance for your service, which we acknowledge is in the highest tradition of the Wisconsin Idea."

The Stifling of Access

But Grover's and DPI's actions contradict: his statements; the state's open records policy; DPI rules; and the principles of the Board of Regents, of which Grover is a member. In the end, Grover has used the requirement for an evaluation to create a situation where there can be only one evaluation, by the person he selects. The following information shows how this has occurred.

Administrative rules for the MPCP establish clear reporting requirements for the Milwaukee Public Schools (MPS) and participating private schools. The rules were written by DPI and have the force of law. They require reports"...to the state superintendent..." on a wide variety of data regarding the academic achievement of students. (MPS data are required for comparisons with the private schools.)

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[47]S.19.31, Wisconsin Statutes.

[48]From an 1894 report of the Board of Regents.

[49]September 12, 1990, letter from Superintendent Grover to Professor Witte. See Appendix B.

The DPI rules contain a provision to keep student identities confidential and enable the information to be widely accessible:

> "Pupils shall be indicated by code so that identities are not revealed by the reporting procedures."[50]

Without confidentiality coding, state law restricts access to the student records. Thus, compliance with the coding rule is essential if there is to be full availability of information about students in the program. Compliance assures that the data can be widely disseminated and analyzed. Compliance would not impair the ability of Witte or others to evaluate the program.[51]

This author requested that DPI provide copies of student achievement reports filed under the rules cited. The response was a textbook run-around.

- Initially, DPI referred the author to Witte. The DPI official who administers the MPCP said Witte had the only set of student records.
- Witte confirmed that he had the only records. He declined to release them. He said he was privately financed and not subject to the Open Records Act.
- Witte said even if DPI had the records they could not be released, because they had not been coded for confidentiality, despite the rule requiring coding.
- After saying it did not have the records - something confirmed by Witte - DPI later implied that it might, after all, have them. But DPI said it could not release them because to do so would disclose student names. DPI did not mention its rule requiring that the names be coded so as to allow release.
- Reminded of the confidentiality rule, DPI acknowledged the rule and the fact that it was not enforcing it. DPI said it would be "an imposition" on the private schools.[52]

Thus, despite a clear state policy favoring public access, DPI is not enforcing a rule which would enable such access. Records which by law should be public - the only records describing student achievement - are:

- Not available, indefinitely, to anyone but Grover's selected evaluator;
- Not in DPI's custody and not covered by a clear records procedure;

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[50]PI 35.03(4)(c)(1).

[51]Witte's research with the Study Commission (see note 45) established that it is not necessary to know student names to analyze academic outcomes. In fact, Witte argued for strict confidentiality procedures to increase the willingness of schools to participate. In that study, Witte worked closely with participating schools to establish coding for confidentiality.

[52]DPI's concern for not burdening the private schools is disingenuous. At the outset of the program, in 1990, the Department inundated the schools with unnecessary paperwork and was admonished in a court case to back off. Further, in other contexts Grover has said how essential it is that the private schools be held fully accountable to him and the Department. Finally, Witte directly told this author it would be "relatively easy" to establish a coding procedure.

- In the sole custody of Witte (and his research team) who, by virtue of private financing, argues that he is not subject to the Open Records Act;

- Held outside DPI even though the records aren't coded for confidentiality, directly compromising DPI's stated goal of protecting confidentiality, a "protective standard...common in sociological pupil studies."[53]

- Held by Witte and his team in uncoded form even though Witte established in his earlier research that confidentiality is a key requirement and coding for it would not impair his ability to do his evaluation.

Unless the confidentiality coding is required and systematically established, longitudinal studies of participating students (by anyone but Witte) will be impossible. This is one of many reasons for recommending that the Legislative Audit Bureau take over the job that DPI has botched.

Achievement records aren't the only crucial data held by Witte, but not DPI, and thus perhaps not subject to the Open Records Act. Using his authority as Grover's evaluator, Witte has conducted extensive student and parent surveys as part of his evaluation. As with data on academic achievement, he has sole control of parent and student survey responses. Witte said to this author that he had been asked by another researcher for access to parent and student survey data. Witte said he had denied the request. He said he had a "proprietary interest" in keeping data confidential until "I first publish it."

Witte's status as a "private" researcher, rather than a state employe handling state records, muddies the waters greatly. He might well have a "proprietary interest" in project records, but is that what the Legislature intended when it told Grover to evaluate the MPCP? Clearly not. Access problems are compounded further by Grover's vague written understanding with Witte. See Appendix B. Among unanswered questions:

- Who supervises Witte for DPI?

  The appointment letter establishes no reporting relationship.

- How long is Witte to serve?

  The appointment letter is open-ended.

- How is Witte to be paid?

  The appointment letter says: "To insure your independence, it is our understanding that at least the initial year's evaluation will be funded by external [i.e. private] sources." Having linked "independence" with non-state funding, Grover continues: "We also understand that in subsequent years state monies may be required." Will Witte's "independence" end at that point? If state funds are used, do "public" records actually become "public"?

- Who maintains and has custody of records?

  The appointment letter is silent.

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[53]August 21, 1992, letter from DPI to this author.

- When Witte's appointment ends, what is his responsibility for turning over records to DPI? In what fashion should the records be transmitted?

  The appointment letter is silent.

In evaluating a program he adamantly opposes, Grover has turned Wisconsin's tradition of open government and open inquiry on its head. He has allowed the only copies of important records to be held outside DPI's custody. He has failed to enforce DPI's rule to protect student identity, a rule which would enable broad dissemination of data. While using the rhetoric of objectivity and independence, he has moved the evaluation beyond the reach of the Open Records Act. He effectively has created an exclusive franchise for carrying out the evaluation. Witte, his sole franchisee: is privately financed; affirms a "proprietary interest" in the project; and asserts he is beyond the reach of the Open Records Act.

The result of Grover's actions is that the program will receive much less scrutiny than otherwise would be the case. This could further Grover's objective of ending the program or at least minimizing its growth.

Grover should enforce the statutes and rules designed to give Witte and others broad access to reports which must be filed with his Department. This would not impair Witte from completing his study, while permitting others who to do theirs.

Meanwhile, the Governor and Legislature should move the entire evaluation out of DPI's hands and restore credibility to the process.

Section 2. John Witte's Evaluation of the MPCP

Witte's initial report was issued in November 1991, following the first full year (1990-91) of the MPCP.[54] A report on the second year (1991-92) is scheduled for release in November 1992.

Grover's Selection

Grover faced a challenge and an opportunity in implementing the evaluation required by state law. His vehement opposition to the MPCP meant that his Department might not be considered objective. Thus, the opportunity: being the first to evaluate the MPCP was one of the most attractive assignments in American education research. Grover could have sought proposals from the nation's most prestigious research organizations and earned praise for clearly distancing himself from the evaluation.

Grover did not respond to a written request for information regarding how Witte's 1990 selection was made. He was asked for the Request for Proposals used to solicit proposals, a list of those who responded, and related information. State purchasing policy normally would require a competitive, qualifications-based selection process for selecting someone outside DPI to evaluate the MPCP.

It is possible that no information is available regarding Witte's selection because his work is privately financed. Following a startup grant from the Robert La Follette Institute of Public Affairs, the source of funds for his substantial ($231,000) two-year grant is the

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[54] "First Year Report - Milwaukee Parental Choice Program" (First Year Report).

private Spencer Foundation.[55] Neither Grover nor Witte responded to a written request for a copy of the grant agreement, so it is not clear whether the funds are routed through the UW or how they are disbursed.

Witte's previous views on educational choice

Having an opinion on educational choice does not disqualify one from studying the MPCP. However, in selecting the first person to evaluate the program, Grover should have named someone with a clearly independent perspective. Witte's widely published views on educational choice do not establish him as a neutral observer.

- The authoritative publication Education Week has reported prominently on Witte's criticism of research supporting the concept of choice.[56] This criticism elicited praise for Witte from the American Federation of Teachers, a staunch opponent of choice, in its weekly New York Times advertisement column.[57]

- As an editor of a book on choice and decentralization, he wrote that "...For those districts [such as Milwaukee] where the problems are the most serious...singular adherence to [choice] will have us in ten years looking backward on...choice as simply another set of failed reforms."[58]

For Grover, Witte's views might have made his selection a "lose-lose" proposition. If Witte's evaluation of the MPCP were negative, his comments would be discounted in many quarters. But if his findings were generally positive, as so far has been the case, they would assume added significance. See discussion below.

In naming Witte, Grover cited his 1984-85 work as research director for a commission which reviewed public school performance in metropolitan Milwaukee.[59] Witte's work for the Study Commission was praised.

In his research for the Study Commission:

- Witte documented serious education issues in Milwaukee; in fact, his research became a factor leading to enactment of the MPCP.

[55]The Chronicle of Higher Education, June 17, 1992, p. A27. At $231,000, the Spencer Foundation grant is ten times the amount being paid to faculty members at the University of Wisconsin-Milwaukee to study a much more complicated educational choice program. Harold Rose, Ph.D., and Diane Pollard, Ph.D. are being paid about $23,000 for an 18-month study of the city-suburban "Chapter 220" program. The program has about 20 participating school districts and 10 times as many students as the MPCP. The Chapter 220 program has been in existence since 1976.

[56]"Paper Launches Academic Attack on Chubb-Moe Book on Education," Education Week, November 14, 1990, p. 1.

[57]The New York Times, November 18, 1990.

[58]Choice and Control in American Education, Volume I, William H. Clune and John Witte, eds., (New York: Falmer, 1990), p. 43.

[59]See note 45.

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- Witte also identified characteristics of public schools where low income students (those targeted by the MPCP) experience success. His evaluation of the MPCP provides an opportunity to see if those characteristics also exist in participating private schools.

Study commission research

Witte's research is directly relevant to his evaluation of the MPCP and, therefore, is described below. The research is summarized in a Final Report[60] and documented through 12 Staff Reports.[61] The Final Report says the "thrust of the research was to determine [whether] schools are attaining high levels of academic achievement without disparity between racial, cultural, and economic groups and to identify the steps required to more fully realize that goal."[62] Based on Witte's research, the Study Commission issued these findings:

> The magnitude of the current problems in many metropolitan [Milwaukee] schools, and the sense of urgency which the Commission feels in seeking alleviation of these problems, is reflected in research which shows that:
>
> •By the fifth grade (perhaps earlier), a significant majority of poor and/or minority children are performing below the national average of achievement tests.
>
> •There is a significant gap in math scores between boys and girls, with MPS longitudinal data showing large drops in math scores from grade 7 to grade 10 for girls of all races, but particularly for Hispanic and black girls.
>
> •The average grade point in 13 of Milwaukee's 15 public high schools is less than 2.0, or C.
>
> •Over one-quarter of the courses taken in MPS high schools end in a recorded grade of F or U for unsatisfactory. In seven of the MPS high schools, the percentage of Fs was above 30.
>
> •MPS has a dropout rate more than double both the state average or the highest rate of any suburban school, with most dropouts occurring before the 11th grade.
>
> •For the grades tested, 2, 5, 7, and 10, the percentages of students in MPS below the national median ranged from 45.2% in grade 2 to 58.3% in grade 10. Of all suburban students tested, the percentages below the national median ranged from 17.6% in grade 2 to 29% in grade 10.[63]

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[60] Better Public Schools, October 1985, Final Report of the Study Commission.

[61] Staff Reports include (i) case studies of individual schools, (ii) detailed research on such topics as parent involvement, academic achievement, personnel policies, and (iii) surveys of parents, teachers, students, and administrators.

[62] p. 11, Better Public Schools.

[63] p. 12, Better Public Schools.

The research also identified a significant difference in performance between low income students (those targeted by the MPCP) and students from more affluent homes. Addressing this, Witte cited "...two very different worlds of educational achievement; worlds separated by but a few miles, yet by much greater distances in terms of acquired skills, institutional success, and future prospects."[64]

In 1986, a year after the Study Commission project, Witte summarized the research for a national education conference.[65] His presentation demonstrated an even more serious assessment than expressed in the Study Commission reports. For example:

> The percentages of courses in the Milwaukee schools that ended in failures are staggering...failing courses must be considered as a threshold that indicates no effective learning.
>
> In case studies of high schools in both MPS and suburbs, we were repeatedly told by teachers that students could pass courses by being present, doing most of the work, and generally putting forward some effort. In MPS, a number of teachers said that [alone] would get students [grades of] C...Thus, when close to a third of the courses taken in a school end in failure, one has to question the amount of learning taking place.
>
> ...[A]t the high school level the combined evidence of test scores, dropout rates, and failures indicates that a number of the MPS schools are very ineffective and essentially bankrupt institutions...
>
> On the average, poor, minority students in the city leave the public education system (often prior to graduation) with little to look forward to either in terms of further education or jobs.[66]

This latter paragraph describes the type of student targeted by and participating in the MPCP. Witte's findings of academic failure among these students were cited as a reason for creating the MPCP. MPCP proponents said parents and students needed the ability to choose schools where their prospects might be better. Witte's research provided a basis for understanding what such schools might be like. For, despite the correlation between low family income and low academic achievement, Witte identified examples of relatively high academic achievement among low income students. The research describes characteristics of schools where this occurred:

> Perceptions and attitudes of teachers consistently related to performance...This study clearly demonstrates a strong relationship between job satisfaction or teacher morale and student test scores, both before and after we control for (family income and residence).

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[64]Staff Report #4, "Metropolitan Milwaukee District Performance Assessment Report," p.22, August 1, 1985.

[65]"Race and Metropolitan Educational Inequalities in Milwaukee; Evidence and Implications," prepared for the National Conference on School Desegregation Research, University of Chicago, September 5, 1986.

[66]"Race and Metropolitan Educational Inequalities in Milwaukee; Evidence and Implications," pp. 22-26.

> Similarly, we have strong evidence...that an effective school, which in the eyes of teachers has stronger leadership, standards, expectations, and teamwork, performs better with both students from low and higher income homes and in the city and suburbs...
>
> ...[B]oth the frequency of parental contacts and how effective teachers judge those contacts to be are very consistently related to our measures of performance, both before and after we control for school environment. In general, at schools where teachers report parental contact to be effective and frequent test scores are higher, failures and dropouts fewer, and attendance rates higher.
>
> Although there are exceptions, teachers' perceptions of the relationship of parents to their schools is the most consistent indicator of performance that we analyzed - at all schools, in both the city and suburbs.[67]

The Study Commission research of Witte is thus relevant in three ways to the MPCP. The research described conditions of academic failure which contributed to enactment of the law. It described the characteristics of schools which might offer children from low income families a better opportunity. And, Witte sees these same characteristics in the MPCP schools.

Witte's evaluation - the first year report

Witte's First Year Report was issued in November 1991. A second report is to be released in November 1992. Witte emphasizes that the First Year Report is *"preliminary."* He cites three reasons:

> First, the program was modest, carefully targeted to a very small number of students and schools.
>
> Second, the program has been under a legal cloud since its inception. Legal challenges began in the summer of 1990 and continue as this report is prepared. Uncertainty about the program's future undoubtedly affects decisions by parents and schools to participate and continue in the program.
>
> Third, one year is an inadequate period of time to evaluate educational outcomes in this or any other program. That problem is compounded by the limited sample sizes and uncertainty about the [program's] future.[68]

Measured against this cautious beginning, the report itself is paradoxical.

- While billed as "preliminary", Witte's report offers many findings he does not qualify as preliminary on issues central to the debate on educational choice. As shown in excerpts below, Witte's research tends to refute major objections which have been voiced by program opponents.
- Witte's 1991 description of the participating private schools is very similar to his 1985 description of selected successful public schools. A recommendation by Witte for some expansion of the program might have been expected. However, he says

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[67]Staff Report #6, "Correlates of Educational Performance," pp. 59-60, August 1, 1985.

[68]"First Year Report ," p. 1.

"[e]xpansion is not currently needed or recommended." and proposes to continue the "modest" and "very small" program "for at least several more years."[69]

- Witte's rationale for not expanding the program is incomplete and unconvincing. He cites only one (of several) program limits and says: "Currently, limitation of the total students enrolled to one percent of MPS enrollment is not a constraint, and thus we recommend no [expansion]."[70] Yet, program limits (other than the one percent rule) have prevented many applicants from attending. (See Chapter I.)

- While opposing expansion (in spite of praise for the participating private schools), Witte's "preliminary" report nevertheless recommends that these small, under-financed schools be subject to sweeping new state regulation. Here Witte aligns himself closely with Grover, who has complained that the private schools are accountable primarily to parents and not DPI.

An analysis of the First Year Report follows, based on extended excerpts. This analysis concludes that in some cases Witte's findings are irreconcilable with the substance of his report. Further, given his acknowledged "proprietary interest," it is self-serving for him to urge that the program "be continued in a form similar to the current one for enough years to complete a comprehensive evaluation."[71]

This report also includes a detailed review of Witte's First Year Report by Paul E. Peterson, Ph.D., a distinguished researcher and scholar. Professor Peterson found the First Year Report to contain substantive methodological flaws.[72] Specifically, Peterson said, Witte's report contains "biases in...design and interpretation...against...choice plans."[73]

Peterson's comments are excerpted in detail. They have yet to be reported in the Wisconsin media. They are significant because of Peterson's distinguished academic stature. He is Director of the Center for American Political Studies at Harvard University. He previously served as Director of Governmental Studies at The Brookings Institution and was Chairman of the Committee on Public Policy Studies at the University of Chicago, where he received his doctorate. He has authored or co-authored 11 books and published 44 articles. Much of his published work deals with educational issues. He has served as a reviewer for 15 different scholarly journals.

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[69]"First Year Report," p. iii and p. 1.

[70]"First Year Report," p 27.

[71]"First Year Report," p 24.

[72]Peterson's review of Witte's evaluation is in Seeds of Crisis: A History of the Milwaukee Public Schools, 1920-1986. He authored a chapter in the book, published this year by the University of Wisconsin-Milwaukee.

[73]Seeds of Crisis: A History of the Milwaukee Public Schools, 1920-1986, p. 306.

Witte's characterizations of choice

The First Year Report provides extensive commentary, unconnected to the research, which will appeal to critics of choice.

Witte erects and knocks down straw men:

> The program is not now, or probably will it ever be, *the* answer for the extensive and complex problems associated with providing a quality education for Milwaukee children.[74]

Witte cites no one who, in describing the very limited MPCP, ever called it "*the* answer" to anything. (Some advocates claim a much broader program would be a major solution.[75])

Another straw man:

> ...[M]erely being a private school does not necessarily insure an adequate education environment.[76]

To whom does Witte attribute this? No one. Credible choice advocates don't claim private schools "insure an adequate education..."

In the following statement, Witte knocks over yet another straw man:

> The MPCP "...and the results outlined in this report cannot be generalized to the more unconstrained 'voucher' programs - those that would subsidize private school education in much broader circumstances. The spirit and the letter of the Milwaukee Parental Choice Program are a stark contrast to public subsidy of elite or exclusive private education." [77]

Witte cites no credible choice proposal whose focus is "public subsidy of elite or exclusive private education." Every credible proposal to expand choice focuses on low and moderate income families and children and private schools, including parochial schools, which hardly epitomize "elite or exclusive private education." Few, if any, of these proposals have enough money attached to them to involve "public subsidy of elite or exclusive private education."

Witte's description of the MPCP

In actually describing the research, Witte is very supportive of the MPCP and the program's basic thrust:

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[74]"First Year Report,", p. 3.

[75]"America's Public Schools: Choice *Is* a Panacea," The Brookings Review, John Chubb and Terry Moe, Summer 1990.

[76]First Year Report, p. iv.

[77]"First Year Report," p. 1.

> The picture...that emerges from our...research...seems to make sense. The students were not succeeding in MPS...The parents, though not financially well off, were more active in the schools than average parents, and were clearly more alienated from the [MPS] schools. They were seeking a better learning environment, with a better disciplinary climate. They turned to the private schools in the hope of finding that environment.[78]

> The program appear[s] to satisfy the intent of offering low-income families a choice other than the public schools for their children's education...

> Rather than skimming off the best students, this program seems to provide an alternative educational environment for students who are not doing particularly well in the public school system...[79]

> Despite some problems and difficulties...it is clear this program continues to offer opportunities otherwise unavailable to some Milwaukee parents....It offers the seeds of innovation, opportunities for poor parents that are already available to most other parents in our state, and marginal support for nonsectarian private schools, schools that for a number of years have been working to provide education under some of the most adverse conditions...[80]

A widely publicized finding is that the program is structured to minimize the major criticisms of those who oppose choice.

> One of the major arguments against choice programs, whether public or private school choice, is that they will enroll the best students, leaving the remaining to be educated in the public school system. The Milwaukee Parental Choice Program was designed specifically to prevent that from happening. Students were to come from poor families, schools were to select students randomly, and students were not to have been in private schools in the prior year. If our small samples are correct, Choice parents are clearly not well-off financially, or in terms of employment, and most students are from single-parent families.[81]

Witte's description of the participating private schools

Superintendent Grover once described the private choice schools as "souped-up day care centers." Witte concludes otherwise. His First Year Report falls just short of being a testimonial.

> In general, the schools have elaborate and refined organizational structures that involve parents heavily. Parental involvement, which was already high for Choice parents in their prior schools, generally increased in the private schools, especially in the areas of volunteering and fund-raising.

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[78]"First Year Report, p. 11.

[79]"First Year Report ," p. iii - iv.

[80]First Year Report, p. 3.

[81]"First Year Report," p. 8.

> Classes that we observed were generally small, with a high proportion of student time spent on task. The curricula in the schools were relatively rich in terms of art, music and dance, languages, and computer use. Most of the instruction we observed was very similar in substance and style to instruction in public schools. The schools are not well equipped to meet the exceptional needs of learning disabled and emotionally disturbed students. In summary, there were problems in the Choice schools, but on balance, the schools provided adequate education.[82]

The "problems" were described by Witte as follows:

> The most serious institutional problems were high staff turnover due to low pay, and dealing with recent changes in location and affiliation for several of the schools. The schools also had difficulty hiring minority teachers...[83]
>
> Staff continuity is a problem in these schools. With some exceptions, however the underlying problem is not dissatisfaction with the school environment or teaching, but with the pay...Other than pay, the most general complaints were lack of materials and teaching aids...[84]
>
> ...One of the original schools, Juanita Virgil Academy, had severe difficulties and was closed in the middle of the year. Thus merely being a private school does not necessarily insure an adequate education environment. The remaining schools in the program did not exhibit the severe problems of Juanita Virgil.[85]

In discussing Juanita Virgil, Witte took a much different approach from Grover. When the school dropped out of the program, the Superintendent issued statements which cast aspersions on the overall program and implied that the school's failure was a portent of more to come. Witte contradicts this:

> The other private schools in the Choice Program, however, have almost nothing in common with Juanita Virgil Academy.[86]

On balance, there is scant mention of other problems in Witte's report. The preponderant description is upbeat, as illustrated by the extended excerpt below:

> ...Unlike Juanita Virgil, the remaining Choice schools have formal and quite elaborate organizational structures. They all have boards of directors, written operating rules, and quite extensive committee structures to handle personnel, admissions, curriculum, and other issues. The boards and committees almost all include parents, some outside community members, and members of the administrative and teaching staffs. Three of the four [largest] schools have written bylaws...

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[82]"First Year Report ," p. iv.

[83]"First Year Report ," p. iv.

[84]"First Year Report," p. 13.

[85]"First Year Report," p. iv.

[86]"First Year Report," p. 11.

> The...majority, but not all, of the teachers have some form of certification in Wisconsin for other states. Several...counted as non-certified have teaching certificates from other countries. Although the cultural emphasis in two of the schools is African-American and one is bilingualism and Hispanic culture, the majority of teachers are white women. The stated reason for this is that there is a shortage of minority teachers and it is difficult to compete with MPS, which has a formal commitment to increase the percentage of minority teachers in its system. Competition with MPS is difficult because the Choice schools pay teachers much less at all levels that the public schools...
>
> ...In many respects, the curriculum of these schools is similar to...most other elementary and middle schools...The curriculum is relatively rich. Music and or dance classes are offered in each school, usually twice per week. Two of the schools have daily Spanish classes for most students (grades 3 to 8 in one school). French is offered in another school. Three of the schools also have computer labs and classes that utilize computers. Computer training occurs an average of twice a week in the higher grades. One of the schools had health classes for all students once a week. All of the schools had physical education, usually twice weekly.
>
> Time on task - meaning the time students spent doing what the teacher and instructional environment dictated - was very high.[87]

The similarity between successful private and public schools

Witte's 1991 report reveals a striking similarity between the private schools and successful schools identified by Witte in his 1984-85 research. As noted earlier, these successful public schools had: high teacher morale; high parent involvement; high expectations; and a sense of structure and teamwork. In light of this, consider Witte's description of the private choice schools:

> Parental involvement is stressed in all of the Choice schools. It is part of the contracts signed by parents in two of the schools. Involvement takes several forms: (1) organized activities that range from work on committees and boards to teas and fund-raising events; (2) involvement in educational activities such as chaperoning field trips, and helping out in the classroom or with other special events. Some parents volunteer their time; others are paid as teacher aides.[88]
>
> All [the schools] have one or more parent groups [which] meet not only on curricular matters, but also play an integral role in fund-raising, which is a formal commitment of non-Choice, tuition-paying parents in three of the schools. In two of the schools, parents sign formal contracts specifying fees, but also obligating themselves to participate in school activities, and to participate in various aspects of their child's education. In one of the schools, students sign contracts to obey rules, complete homework.[89]

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[87]"First Year Report," p. 12-14.

[88]"First Year Report," p. 16.

[89]"First Year Report,", p. 12.

> ...Teachers and administrators went out of their way to describe how they enjoyed the small class sizes they taught (averaging 16.5 students), the autonomy they had in the classroom, the usually congenial atmosphere in the schools, and the support they received in disciplinary matters.[90]
>
> ...Finally, students confirmed what other evidence has indicated, that expectations by both parents and teachers were very high. Ninety-four percent of the older students and 89 percent of the younger agreed that "...teachers expect students to do their best all the time"...And nearly everyone agreed that their parents expect them to get good grades...[91]

First year outcomes

Witte's report describes the academic history of former MPS students in the MPCP ("Choice students" in Witte's study):

> ...[T]he Choice students were not achieving well in MPS...[F]or the Choice students on which we have prior test data, achievement was very low prior to their enrolling in the private schools...
>
> ...On the last test they took in MPS, only 25 percent were at or above the median in reading and 36 percent in math. For our control group, approximately 35 percent of the MPS students were at or above the median in reading, and 43 percent in math. Choice students were also behind comparable low-income students in MPS, although the math differences are not that large.
>
> A major conclusion is that with either measure of prior achievement, Choice students were not achieving as well as most students in the Milwaukee Public Schools and were slightly behind low-income MPS students.[92]

Witte's analysis of test scores

In describing standardized test scores of first year choice students, Witte says:

> Preliminary outcomes after the first year of the Choice Program were mixed. Achievement test scores did not register dramatic gains and the Choice students remained approximately equal to low-income students in MPS (higher on reading, slightly lower on math). Based on individual changes in national percentile rankings, approximately as many Choice students gained as declined. All these results are based on a small number of students...
>
> ...[T]he Choice students were clearly behind the average MPS student and also behind a large random sample of low-income MPS students. There was not a dramatic change in those results. The Choice students clearly are not yet on par with the average MPS students in reading and math skills. In comparison to the

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[90]"First Year Report," p. 13.

[91]"First Year Report," p. 16.

[92]"First Year Report," p. 8-9.

low-income students, they are slightly above them in reading scores, but below in math.[93]

As discussed below and later in this Chapter, Witte's interpretation of student achievement conflicts with his own reported data and is disputed by this author and Professor Peterson.

The finding of Witte which received considerable media attention dealt with student test scores, generally described by Witte as "mixed." In this area his analysis (and use of his own research) is flawed.

For example, in an extremely curious sentence, Witte chooses to emphasize that after one year in the program:

"The Choice students clearly are not yet on par with the average MPS student in reading and math skills."[94]

Witte thus sets program expectations that have no relationship to reality. Choice students started below even low-performing MPS students. Neither supporters nor critics of the MPCP ever burdened the program with the assumption that Choice students would be "on par" with average MPS students in one year, especially a startup year which Witte himself said was marked by distraction and uncertainty about the entire program.

Finally, and most importantly, with respect to reading scores Witte's own data (see Table 7) show a gain for Choice students and a closing of the gap with MPS students. Specifically, for Choice students the median national percentile score on reading was 34 (up from 30). This compared with 35 for MPS students[95], yet Witte says "...Choice students clearly are not yet on par with the average MPS student in reading..." Controlling for differences in the two student populations, it can be argued that in reading tests Choice students exceeded the overall MPS scores.

Table 7
Comparative Reading and Math Scores, 1990 and 1991

	Choice Students		MPS Students		Low-Income MPS Students	
	Reading	Math	Reading	Math	Reading	Math
1990	30	33	37	42	32	37
1991	34	30	35	40	31	35
Change	+4	-3	-2	-2	-1	-2

The predominant media message delivered when Witte's study was released dealt with his imprecise characterization of test scores.

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[93]"First Year Report," p. 18 and 23.

[94]"First Year Report," p. 18.

[95]Table 18, First Year Report.

The state's largest paper, The Milwaukee Journal, carried a headline which flatly declared: "Scores aren't up under school choice."[96] A separate story in the same edition said: "The first independent evaluation of the [MPCP]...found no evidence that choice was boosting student achievement."

In fact, The Journal (and Witte) could have said: "Choice students show only gain." As Witte's own data confirms, reading scores were "up." On a comparative basis, the only median national percentile scores to improve were for the Choice students.[97]

Other measures of the participating schools

On all other key outcome measures, Witte is without exception impressed:

> Student attendance, parental attitudes toward schools, opinions of the Choice program, and parental involvement were all positive. Attendance was slightly higher than the average elementary school attendance in MPS. Parental attitudes towards their schools and education of their children were much more positive than their evaluations of their prior public schools. This shift occurred in every category (teachers, principals, instruction, discipline, etc.) When parents of students who did not finish the year in a Choice school were included, the results were similar, although not as pronounced. Similarly, parental involvement, which was more frequent than for the average MPS parent in prior schools, was even greater for most activities in the private schools.[98]

Witte's recommendations

Overall, the First Year Report is a description of the success of the participating private schools. According to Witte's own 1984-85 research, the schools exhibit virtually all the characteristics which would indicate potential success in helping low-achieving students. Yet, as reported in Chapter I (but barely mentioned by Witte), they operate at about 50% of the per pupil cost of MPS.

With these findings and his earlier research as background, Witte easily could have supported significant recommendations to expand the program. For example, Witte could have suggested that rules limiting student participation be eased.[99] Or, he could have proposed an increase in per pupil funding, to address some of the financial hardships he cites which are faced by the schools and their teaching staffs.

Instead, against all the positive findings, Witte offers major proposals based on the single significant major negative in his report...the closure of Juanita Virgil Academy.

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[96]The Milwaukee Journal, p. 1, November 24, 1991.

[97]Data in the Table 7 are from separate tables (Table 14 and Table 18) in the First Year Report.

[98]"First Year Report, p. 23.

[99]Research for this report (see Chapter I) indicates hundreds of students can't take part, due to space limits and the "49%" limit.

Although he says the remaining private schools "have almost nothing in common with Juanita Virgil Academy," Witte says they should be regulated by the state "to avoid the Juanita Virgil experience..." How should they be regulated? Witte says his "...major regulatory recommendations" should be based on none other than the "characteristics of the organizational and management structures of the...Choice schools - characteristics absent in Juanita Virgil..." [100]

In other words, the remaining private schools should be subject to sweeping new regulations...to assure that they don't change what they have done without regulation.

What specific regulations does Witte suggest?

> Governance. Schools in the Choice Program should be required to have a formal governance structure, including a board of directors, suitable committees, and bylaws. They must also adhere to state open meetings laws.
>
> Financial Reporting. Schools should also be required to conduct an annual financial audit which meets the accounting standards for private, nonprofit organizations. The report should be public and filed annually with the Department of Public Instructions.
>
> Added Accountability. Schools should be required to meet all current and future state outcome requirements, including statewide tests, dropout reporting, and a school report card when it is required.
>
> Review Accountability Standards. We recommend that the legislature review the current standards of accountability as specified in the statute. At present, schools may meet any one of four standards (attendance, achievement, grade advancement, or parental involvement). We suggest that the schools meet more than one of these standards. We would also suggest flexibility in the standards based on the level of the school.[101]

These new rules, to be administered by DPI, are offered to enhance "....accountability by parents."[102] (emphasis added) Witte offers no evidence that parents made any case for imposing state rules on the schools. Grover is the primary one who has sought such control. If implemented, the regulations could further Grover's goal of containing the program, as successful small schools seek to avoid the hassle of state regulation.[103]

Further, Juanita Virgil's closure less than one year into the program, in the absence of any DPI regulation, would appear to support the theory of choice supporters that accountability to parents is effective. The school's closure stands in contrast to the

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[100]"First Year Report," p. 11.

[101]"First Year Report," p. v.

[102]First Year Report, p. v.

[103]The specter of this kind of regulation often is cited as a potential reason why successful private schools will shun "voucher" students. A recommendation to impose state regulation of already successful schools is effectively a recommendation to keep some successful schools out of the program.

continued operation, year-in and year-out, of unsuccessful public schools, all operating under the regulatory eye of DPI.

Witte's other major recommendation, that "expansion is not currently needed or recommended," rests on the glaringly incomplete assertion that "limitation of the total students enrolled to one percent of the MPS enrollment is not a constraint."[104]

A survey conducted in connection with this report identifies real and present constraints on student participation. Witte's report explicitly identifies one - the requirement that no school have more than 49% of its enrollment in Choice students. Witte's report agrees, implicitly, that lack of funds also is a limitation. Further, the existence and impact of various limits was clear early in the program's history.[105]

Why, in light of these limitations, would Witte cite the only current non-constraint as a basis for concurring with Grover's view that expansion is not needed?

Why would Witte's major substantive recommendation be to concur with Grover and recommend state regulation of the schools (in a program Grover calls "experimental")?

Why, in light of Witte's earlier research and his documented current findings, would his primary recommendations be so at odds with the evidence presented in the First Year Report?

These questions raise doubt as to whether any evaluator of the program can be "independent" of Grover as long as the Superintendent has open-ended appointment authority which can be withdrawn at his pleasure. This confirms the need to move the evaluation process entirely from under DPI's control.

Professor Peterson's critique

Professor Peterson finds numerous flaws in Witte's analysis of the test data and the program in general. Peterson's analysis has not yet been reported in the Wisconsin media. Because of the specific content of his criticism, and his substantial credentials, Peterson is quoted at length below.

> The legislature authorized a comprehensive evaluation of the program to begin simultaneously with its establishment, making it likely that all the initial missteps that accompany most innovations would be well-documented, exposing the plan to immediate public scrutiny and undermining its long-term political support.[106]
>
> The potential political difficulties posed by the evaluation were underlined by the selection of John Witte, a professor of political science at the University of

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[104]"First Year Report," p. iii and p. 27.

[105]"Enrollment in choice plan short of goal - Legal and space problems forced limits, schools say," The Milwaukee Journal, August 7, 1990.

[106]Seeds of Crisis: A History of the Milwaukee Public Schools, 1920-1986, p. 304. The requirement for an immediate , yearly evaluation of the MPCP contrasts with the absence of evaluation requirements for most other education programs. Given the history and political context of the program's enactment, it is relatively safe to assume that some proponents of the annual evaluation hoped for a negative initial assessment.

Wisconsin in Madison who was held in high regard by choice critics, as the person to conduct the evaluation.

Quite clearly, Witte was correct in saying that "the results outlined [in his report] cannot be generalized to the more unconstrained 'voucher' programs" that, hopefully, would not be hampered by such extraordinary political, legal, financial and administrative impediments.

Despite these obstacles, the results from Witte's evaluation of the first year allow one to be quite optimistic about the potential for choice in improving education in central city schools. Choice students gained more on a standardized reading test than did public school students, parents reported extraordinarily high satisfaction with the choice schools, some four hundred new students entered the second year of the program, and even an evaluation biased against finding success urged continuation of the program. [emphasis added]

[Biases in Witte's study]

...[T]o appreciate the magnitude of the choice plan's success, the biases in the design and interpretation of the Witte evaluation need to be discussed in some detail.

First, Witte's statistical comparisons between choice and public school students were uncorrected for selection bias. Originally, the evaluation was expected to compare students in the program with the 217 students who had to be excluded because space was not available, a comparison group which even though not a perfectly drawn random sample would have been a reasonably close approximation to that ideal. Instead, the evaluation compared choice students with two public school populations: all students in the Milwaukee public schools, and all low income students in the public schools.

But choice students were not simply a cross-section of Milwaukee students or even Milwaukee students from low-income families. On the contrary, the median score of students who entered the choice plan was 7 percentage points lower on reading and 9 percentage points lower on math than the median score of the typical Milwaukee public school student. As compared with the median score of students from low income families, choice students scored 2 percentage points and 4 percentage points lower respectively.

There were other signs that choice students were [difficult students]...Thirty-six percent of choice parents reported that public schools had contacted them about their child's behavior three or more times, while only 23 percent of all public school parents had been so contacted. Twenty-seven percent had been contacted three or more time about their child's' academic performance, whereas only 21 percent of the Milwaukee public school parents reported such contacts. In other words, the choice students had been doing relatively poorly during their years in the public school.

In statistical parlance, choice students were an adversely selected population, a group that could be expected to perform poorly. Any uncorrected comparison of

> the performance of this group to that of the typical public school student could well be biased against the choice plan.[107] (emphasis added)

In Witte's proposal to study the program, he emphasized the importance of using as a control group the students who applied for but could not attend Choice schools:

> "The students who applied but were not admitted will constitute the second group we will study. This is a unique opportunity in that it allows us to track students who will remain in the public schools but who come from families who have made an effort to seek private education. Prior studies were adversely affected [by not being able to make such comparisons]...By tracking the parallel educational outcomes of admitted and rejected students, we will have considerably improved control of a families' value of education."[108]

The fact that this comparison was not made, at least in the First Year Report, underscores the significance of Peterson's other comments. After pointing out the first of his concerns (above), he continues:

> Secondly, the comparison of parental evaluations of choice and public schools was also biased against the choice plans. Forty-nine percent of the parents with students participating in the program responded to questionnaires set to them, but only 30 percent of Milwaukee public schools parents responded. Since it is very likely that parents who respond to questionnaires have students who are doing better in school--parental interest and involvement may be both a cause and a consequence of school achievement--those public schools parents who did respond very likely over-represented parents of students performing at a higher level as well as parents who were relatively more satisfied with the schools.
>
> This selection bias in the comparative sample of public school parents may account for some of the findings reported in the evaluation. When asked whether they had been satisfied with various aspects of the public schools, the choice plan parents reported greater dissatisfaction on almost every facet of public education. Thirty-four percent of the choice parents reported dissatisfaction with the public school teachers their children had had, while only 12 percent of the comparison group had been similarly dissatisfied. Forty-nine percent of the choice parents had been dissatisfied with the amount their child had learned in public school, while only 17 percent of the comparison sample had been similarly disgruntled. Fifty-two per cent of the choice parents had been unhappy with public school discipline, while only 25 percent of the comparison group had been. In other words, when asked to evaluate public school performance, the two samples of parents were strikingly different.
>
> Witte attributes all of these differences in parent satisfaction to the differences in the public school experiences of the two groups. In his view, choice parents took their children out of the public schools because their children were doing less well than the children of other public school parents. But it is also possible that the choice parents were a group of adults who were generally dissatisfied. Their complaints about public education may simply have been part of a generally

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[107] Seeds of Crisis: A History of the Milwaukee Public Schools, 1920-1986, p. 305-306.

[108] "Research Proposal: Milwaukee Parental Private School Choice Program," September 13, 1990, John F. Witte.

> discontented predisposition. Alternatively, the public school parents who responded to the questionnaire may well have been more supportive of public schools than parents who did not fill out the questionnaire. If either or both of these likely possibilities are correct, then the comparison between the choice and public school parents is biased against finding greater parental satisfaction with choice schools.[109]

Peterson continues by examining the absence in Witte's study of cost-benefit analysis.

> Thirdly, [Witte's] evaluation does not compute any kind of cost-benefit analysis. It makes no effort to ascertain whether choice schools or public schools are more efficient in providing educational services.
>
> The average per pupil cost of public education in Milwaukee in 1990 was approximately $5,300, while the amount received by the private schools from the state was $2,500, an amount that was supplemented to an unknown but probably modest extent by a variety of school fund-raising activities and by tuition contributed by fee-paying students.
>
> In brief, private per pupil costs were approximately one half the cost of per pupil costs in the Milwaukee public schools. By not mentioning this, Witte treats only modestly better results on standardized test in the choice schools as indicating little difference between choice and public schools. Once the cost data are included in the evaluation, it is difficult to conclude that the two types of institutions are equally efficient.[110]

As described at the outset of this Chapter, Witte has expert credentials when it comes to analyzing the Milwaukee Public Schools. It is difficult to explain why he does not directly bring this expertise to the forefront in the MPCP evaluation. Peterson, although perhaps unaware of Witte's earlier work, also questions why more comparison with MPS was not included:

> Fourth, while the [Witte] evaluation reports on-site observations of educational activities in the private schools, no comparable reports...in public schools are included. Thus the tables in the evaluation reveal that students in only 7 percent of the observations were students engaged in non-academic activities more than half the time. Although these percentages seem to indicate a high level of academic orientation--a study of elementary public schools in Minneapolis schools observed students engaged in non-academic activities in their academic classes from 30 to 35 percent of the time--one cannot tell just how much more educationally focused were these private--as compared to public--educational settings without data collected according to similar protocols from the Milwaukee public schools.
>
> Witte does not report whether he felt on-site comparisons of public schools were unnecessary or whether he was unable to secure the cooperation of the Milwaukee public schools. If the latter were the case, then it suggests that public--as distinct

[109] Seeds of Crisis: A History of the Milwaukee Public Schools, 1920-1986, p. 306-307.

[110] Seeds of Crisis: A History of the Milwaukee Public Schools, 1920-1986, p. 307.

> from private--schools are less willing to subject themselves to external assessment and evaluation.[111]

Peterson's final specific point of criticism deals with Witte's discussion of students who did not return to the program in the second year.

> Fifth, the attrition rate in the choice schools is impossible to evaluate. [Witte] expresses concern at the sizable percentage of students leaving choice schools at the end of the year.
>
> But [Witte] provides no comparable attrition data for public school students, no information on the percentage of students who were forced to leave the private school because family income had exceeded the permissible income level, and no information on the effects of attrition of uncertainty about the choice program's future.[112]

Peterson points out that a reasonable interpretation of Witte's research supports more definitive findings than Witte made. It is important to re-emphasize that Peterson brings to this analysis a distinguished career of research on educational policy and related issues.

> ...[I]n spite of the biases against the choice schools in the design and interpretation of the evaluation, a review of Witte's data allows one to reach positive conclusions about the potential for choice-based education in the central cities. During a year when the median reading score of all Milwaukee public school students was falling by 2 percentage points and when the median reading score of Milwaukee students from low-income families was falling by one percentage point, the uncorrected median reading score of choice students increased by 4 percentage points.
>
> The results from the uncorrected math comparison were not as positive--choice student scores fell by 3 percentage points while those in the public schools fell by two. Had Witte corrected for the selection bias in his research design, he might have found that choice students were also doing better in math. But instead of making the appropriate corrections for selection bias, Witte rushes to the conclusion that there is little to choose between the two types of schools.
>
> Scores on standardized tests are only one measure of school quality. Of at least equal interest are parental evaluations of the schools their children are attending. Here the private schools scored dramatically higher, despite the fact that they may have had the more grumpy parents. Only 8 per cent of choice parents report being dissatisfied with the amount their child learned in school and only 8 percent reported being dissatisfied with school discipline. Six per cent were disappointed with the teacher's performance. In the comparison sample of public school parents, the comparable levels of dissatisfaction were 17, 25 and 12 percent.
>
> When asked to grade their schools, 44 percent of the parents gave the choice schools an "A" while 27 percent of the uncorrected sample of public school

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[111] Seeds of Crisis: A History of the Milwaukee Public Schools, 1920-1986, p. 307-308.

[112] Seeds of Crisis: A History of the Milwaukee Public Schools, 1920-1986, p. 308.

parents gave their schools the high grade. In other words, the crabby parents who had left the public schools were not much happier than even the selected sample of public school parents. Even Witte was forced to conclude--admittedly, with great restraint--the "parental attitudes toward schools...and parental involvement were...positive.[113]

Peterson concludes, along with this author, that Witte's recommendations do not flow logically from his own study:

All in all, the results of the initial evaluation, if interpreted appropriately, strongly endorse even this halting step toward educational choice.

Not only did reading scores improve relative to those of students in public schools, not only were choice parents far more satisfied than public school parents, not only were more students signing up for choice schools in its second year, but these accomplishments were realized despite the following facts: choice students had previously been among the poorest school achievers; choice schools were operating with half the budget enjoyed by the public schools; and the choice plan, still in its first year, was operating in an climate of great political and legal uncertainty. Even Witte called for the continuation of the experiment, though in language far more qualified than circumstances see to warrant:

> The bottom line of this report is recommendation to continue the program for at least several more years. Despite some problems and difficulties, engendered both by the uncertainty of the program's future (because of court challenges) and by limited demonstrated educational success to date, it is clear this program continues to offer opportunities otherwise unavailable to some Milwaukee parents.

If the March 1992 Wisconsin state [S]upreme [C]ourt decision establishing the program's constitutionality finally allows the program to stabilize, and if the program is given more adequate funding by public officials, this experiment in Milwaukee may have identified the mechanism necessary to provide educational opportunity for low income minorities in impoverished central cities in the decades ahead.

But one cannot be particularly hopeful in this regard. The many restrictions placed on the choice plan in Milwaukee indicate public school officials, afraid that the drift to private schools could become an avalanche if not quickly stopped, can be expected to continue to fight this experiment--and others like it--by every political and legal means available. The pressures to design and interpret evaluations of choice in such a way as to yield unfavorable--or at least not too favorable--results are likely to continue. In this regard, one feels compelled to dissent from Witte's recommendation that the program "be continued in a form similar to the current one for enough years to complete a comprehensive evaluation." Objective evaluation is needed, but the program is too limited and the need for reform in Milwaukee and other cities is too urgent to wait the many years it would take to conduct.[114]

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[113] Seeds of Crisis: A History of the Milwaukee Public Schools, 1920-1986, p. 308-309.

[114] Seeds of Crisis: A History of the Milwaukee Public Schools, 1920-1986, p. 309-310..

Appendix A

The attached two pages are excerpts from the Wisconsin Statutes containing s.119.23, the provisions of the Milwaukee Parental Choice Program.

(9) ENROLLMENT UNDER LEGAL NAME. The board may require that any pupil attending public school shall be enrolled under his legal name.

(10) EMPLOYES. (b) Subject to ss. 63.18 to 63.53 when applicable, the board may employ and determine the qualifications, duties and compensation of any persons as are required in the operation and management of the schools.

(c) The board may employ a staff to aid it in its duties. The board shall determine the compensation, duties and qualifications of its staff, including whether or not employment of such staff shall be subject to ss. 63.18 to 63.53.

(11) BONDED OFFICERS AND EMPLOYES. The board may require any officer or employe of the board to give security for the faithful performance of his duties in such form and amount as the board determines, and may require at any time additional bonds and sureties of any officer or employe.

(12) EMPLOYER CONTRIBUTION. The board may make as the employer agency the contributions to the city retirement system payable under chapter 396, laws of 1937, in respect to its employes who are members of such system.

(13) EXCHANGE TEACHERS. The board may make an agreement with the managing body of the schools in any city or school district in the United States or another country for the exchange of one of the board's teachers for a teacher of such other city or school district for a period not exceeding one school year. The board shall determine the qualifications and compensation of the teacher rendering service under the agreement in the schools under its jurisdiction, who shall be counted as a regular teacher in the city in the computation of state and county school aids. The agreement shall state:

(a) The manner and by whom the salaries of such exchange teachers shall be paid.

(b) That any teacher regularly employed by the board under this chapter shall receive credit for the year of exchange teaching service in the computation of any benefits to which he is entitled under ch. 40 and the manner in which the monthly reservations shall be paid under that subchapter.

(c) Such other provisions as the board and the other managing body deem appropriate.

(14) SALES AND CHARGES. The board may establish and maintain, in any of the schools or playgrounds under its jurisdiction, cafeterias and stores for the sale of schoolbooks, candies, refreshments and supplies. The board also may charge or permit the making of a charge for admission to any school, social center or athletic entertainment or activity, under such terms and conditions as the board prescribes.

(15) LEASE SCHOOL PROPERTY. In addition to any other authority, the board may lease school sites, buildings and equipment not needed for school purposes to any person for any lawful use at a reasonable rental for a term not exceeding 15 years.

(16) GIFTS AND GRANTS. The board may receive, accept and use gifts or grants of furniture, books, equipment, supplies, moneys, securities or other property used or useful for school and educational purposes. The board shall make such use of gifts or grants, or invest the same in the case of moneys, as the donor or grantor specifies. In the absence of any specific direction as to the use of such gifts or grants by a donor or grantor, the board may determine the use of or may invest the same in accordance with the law applicable to trust investments. In the use, control or investment of such gifts or grants, the board may exercise the rights and powers generally conferred upon trustees.

(17) PURCHASES FROM HOUSE OF CORRECTION. The board may purchase for use in the schools, from any county in which the city is located, furniture, furnishings and equipment manufactured in any house of correction under s. 303.16 (1). The board may waive the furnishing by the county or institution of bid bonds and performance bonds otherwise required by the statutes in connection with any such purchase.

(18) COPYRIGHT MATERIALS. The board may copyright under the applicable federal laws any book, pamphlet, bulletin or record form edited and published by or under the direction of the board.

(19) FENCES. The board may construct around any schoolhouse or playground site a fence of materials and design approved by the board.

(20) DIPLOMAS. The board may grant diplomas in testimony of the completion of high school or special education requirements, including the requirements of special schools established under s. 119.28 and special classes, centers or services established under s. 115.83.

(21) RULES ON CONDUCT AND DRESS. The board may establish rules pertaining to conduct and dress of pupils in order to maintain good decorum and a favorable academic atmosphere.

(22) RECORDS CUSTODIAN. On behalf of any school district authority as defined in s. 19.32 (1), including the board, school district officers and any subunit of the board or school district, designate one or more persons to be legal custodians of records.

History: 1973 c. 16, 21, 91, 188, 243; 1981 c. 96 ss. 45, 46, 67; 1981 c. 335; 1985 a. 225 ss. 67, 69; 1989 a. 31, 290.

119.19 Released time for religious instruction. (1) The board may permit a pupil, with the written permission of the pupil's parent or guardian, to be absent from school for up to 180 minutes per week to obtain religious instruction outside the school during the required school period. The board shall determine periods allotted for the pupil to be absent from school for the purpose of religious instruction. Monthly, the supervisor of the religious instruction shall report the names of the pupils who attended such weekly religious instruction to the principal of the school that the pupil regularly attends. The board may withdraw permission to be absent from school if a pupil does not attend the religious instruction.

(2) The board is not responsible for transporting a pupil to or from religious instruction under sub. (1).

(3) The board is released from all liability for a pupil who is absent from school under sub. (1).

History: 1989 a. 267.

119.22 Sex discrimination in physical education or physical training prohibited. Courses in physical education or physical training may not discriminate on the basis of sex in the provision of necessary facilities, equipment, instruction or financial support, or the opportunity to participate in any physical education or training activity as provided in 20 USC 1681 et seq.

History: 1971 c. 219, 307, 336; 1973 c. 188; 1977 c. 284; 1979 c. 53; 1983 a. 36, 412.

119.23 Milwaukee parental choice program. (1) In this section, "membership" has the meaning given in s. 121.004 (5).

(2) (a) Subject to par. (b), beginning in the 1990-91 school year, any pupil in grades kindergarten to 12 who resides within the city may attend, at no charge, any nonsectarian private school located in the city if all of the following apply:

1. The pupil is a member of a family that has a total family income that does not exceed an amount equal to 1.75 times the poverty level determined in accordance with criteria established by the director of the federal office of management and budget.

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2. In the previous school year the pupil was enrolled in the school district operating under this chapter, was attending a private school under this section or was not enrolled in school.

3. The private school notified the state superintendent of its intent to participate in the program under this section by June 30 of the previous school year.

4. The private school complies with 42 USC 2000d.

5. The private school meets all health and safety laws or codes that apply to public schools.

(b) 1. No more than 1% of the school district's membership may attend private schools under par. (a) in any school year.

2. No more than 49% of a private school's enrollment may consist of pupils attending the private school under this section.

(3) The pupil or the pupil's parent or guardian shall submit an application, on a form provided by the state superintendent, to the participating private school that the pupil wishes to attend by June 30 of the school year immediately preceding the school year in which he or she wishes to enroll. Within 60 days after receiving the application, the private school shall notify the applicant, in writing, whether the application has been accepted. The state superintendent shall ensure that the private school determines which pupils to accept on a random basis.

(4) Upon receipt from the pupil's parent or guardian of proof of the pupil's enrollment in the private school, the state superintendent shall pay to the private school, from the appropriation under s. 20.255 (2) (fu), an amount equal to the total amount to which the school district is entitled under ss. 121.08 and 121.085 divided by the school district membership. The state superintendent shall pay 25% of the total amount in September, 25% in November, 25% in February and 25% in May.

(5) The state superintendent shall:

(a) Annually reduce the aid paid to the board under s. 121.08 by an amount determined as follows:

1. Divide the total amount to which the school district is entitled under ss. 121.08 and 121.085 by the school district membership.

2. Multiply the quotient under subd. 1 by the number of pupils attending private schools under this section.

(b) Ensure that aid paid to other school districts under s. 121.08 is neither reduced nor increased as a result of the payments under sub. (4) or the reduction in aid to the board under par. (a) and that the amount of the aid reduction under par. (a) lapses to the general fund.

(c) Ensure that pupils and parents and guardians of pupils who reside in the city are informed annually of the private schools participating in the program under this section.

(d) Annually submit to the chief clerk of each house of the legislature for distribution to the appropriate standing committees under s. 13.172 (3), and to each private school participating in the program under this section, a report comparing the academic achievement, daily attendance record, percentage of dropouts, percentage of pupils suspended and expelled and parental involvement activities of pupils attending a private school under this section and pupils enrolled in the school district operating under this chapter.

(6) The board shall provide transportation to pupils attending a private school under this section if required under s. 121.54 and may claim transportation aid under s. 121.58 for pupils so transported.

(7) (a) Each private school participating in the program under this section shall meet at least one of the following standards:

1. At least 70% of the pupils in the program advance one grade level each year.

2. The private school's average attendance rate for the pupils in the program is at least 90%.

3. At least 80% of the pupils in the program demonstrate significant academic progress.

4. At least 70% of the families of pupils in the program meet parent involvement criteria established by the private school.

(b) The state superintendent shall monitor the performance of the pupils attending private schools under this section. If the state superintendent determines in any school year that the private school is not meeting at least one of the standards under par. (a), that private school may not participate in the program under this section in the following school year.

(8) There is created a pupil assignment council composed of one representative from each private school participating in the program under this section. Annually by June 30, the council shall make recommendations to the participating private schools to achieve, to the extent possible, a balanced representation of pupils participating in the program under this section.

(9) (a) The state superintendent may conduct one or more financial or performance evaluation audits, or both, of the program under this section.

(b) The legislative audit bureau shall perform a financial and performance evaluation audit on the program under this section. The bureau shall submit copies of the audit report to the chief clerk of each house of the legislature for distribution to the appropriate standing committees under s. 13.172 (3) by January 15, 1995.

History: 1989 a. 336.

119.24 Admission of pupils. Each school under the jurisdiction of the board shall be open to pupils residing within the attendance district established for that school under s. 119.16 (2). A pupil residing in any such district may attend a school in another district with the written permission of the superintendent of schools.

History: 1985 a. 29.

119.25 Expulsion of pupils. (1) The board may adopt a resolution, which is effective only during the school year in which it is adopted, authorizing any of the following to determine pupil expulsion from school under sub. (2) instead of using the procedure under s. 120.13 (1) (c):

(a) An independent hearing panel appointed by the board.

(b) An independent hearing officer appointed by the board.

(2) During any school year in which a resolution adopted under sub. (1) is effective, the independent hearing officer or independent hearing panel appointed by the board may expel a pupil from school whenever the hearing officer or panel finds that the pupil engaged in conduct that constitutes grounds for expulsion under s. 120.13 (1) (c). No administrator may be designated to participate in an expulsion hearing if he or she was involved in the incident that led to the expulsion proceeding. Prior to such expulsion, the hearing officer or panel shall hold a hearing. Not less than 5 days' written notice of the hearing shall be sent to the pupil and, if the pupil is a minor, to the pupil's parent or guardian, specifying the particulars of the alleged conduct, stating the time and place of the hearing and stating that the hearing may result in the pupil's expulsion. This section shall be printed in full on the face or back of the notice. Upon request of the pupil and, if the pupil is a minor, the pupil's parent or guardian, the hearing shall be closed. The pupil and, if the pupil is a minor,

Appendix B

(This is the text of Superintendent Grover's September 12, 1990, appointment letter to Professor Witte. The third paragraph says that Witte's planned evaluation "conforms to the statutes and administrative rules governing the evaluation." As Chapter II of this study describes, this has not been the case with respect to coding of student records and public access to student achievement data.)

Dear Professor Witte:

The Department of Public Instruction has the statutory authority and responsibility of evaluating the Milwaukee Parental Private School Choice Program as required by Section 119.23(5)(d)--"Annually submit to the chief clerk of each house of the legislature for distribution to the appropriate standing committees under s.13.172(3), and to each private school participating in the program under this section, a report comparing the academic achievement, daily attendance record, percentage of dropouts, percentage of pupils suspended and expelled and parental involvement activities of pupils attending a private school under this section and pupils enrolled in the school district operating under this chapter."

In the interest of objectively evaluating this program, I am pleased to appoint you as the independent evaluator of the Milwaukee Choice Program. Your knowledge and objectivity as Executive Director of the Commission on the Quality and Equity of Milwaukee Metropolitan Public Schools gives us confidence that the evaluation will be comprehensive and of highest quality.

The evaluation, following the preliminary research design you have submitted, conforms to the statutes and administrative rules governing the evaluation. We understand that discussions with representatives from the private schools and the Milwaukee Public Schools may result in changes and additions to the research design in this or subsequent years.

We will assist and cooperate in any way you deem necessary. We will also help you in seeking the assistance and cooperation of the Milwaukee Public Schools and the private schools involved in the program. Although controversial and facing court challenges, we realize that the statutory requirements of the program are in the experimental tradition of educational research and, for that reason, it must be evaluated fairly and comprehensively. To insure your independence, it is our understanding that at least the initial year's evaluation will be funded by external sources. We also understand that in subsequent years state monies may be required.

We thank you in advance for your service, which we acknowledge is in the highest tradition of the Wisconsin Idea.

Sincerely,

Herbert J. Grover

ABOUT THE INSTITUTE

The Wisconsin Policy Research Institute is a not-for-profit institute established to study public policy issues affecting the state of Wisconsin.

Under the new federalism, government policy increasingly is made at the state and local level. These public policy decisions affect the lives of every citizen in the state of Wisconsin. Our goal is to provide nonpartisan research on key issues that affect citizens living in Wisconsin so that their elected representatives are able to make informed decisions to improve the quality of life and future of the State.

Our major priority is to improve the accountability of Wisconsin's government. State and local government must be responsive to the citizens of Wisconsin in terms of the programs they devise and the tax money they spend. Accountability should be made available in every major area to which Wisconsin devotes the public's funds.

The agenda for the Institute's activities will direct attention and resources to study the following issues: education; welfare and social services; criminal justice; taxes and spending; and economic development.

We believe that the views of the citizens of Wisconsin should guide the decisions of government officials. To help accomplish this, we will conduct semi-annual public opinion polls that are structured to enable the citizens of Wisconsin to inform government officials about how they view major statewide issues. These polls will be disseminated through the media and be made available to the general public and to the legislative and executive branches of State government. It is essential that elected officials remember that all the programs established and all the money spent comes from the citizens of the State of Wisconsin and is made available through their taxes. Public policy should reflect the real needs and concerns of all the citizens of Wisconsin and not those of specific special interest groups.

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